

The Examiner is also respectfully requested to return copies of the following INFORMATION DISCLOSURE STATEMENT Forms and to indicate thereon that the cited publications were considered and made of record: Forms PTO/SB/08A and PTO/SB/08B filed on April 8, 2004; and Form PTO/SB/08A filed on June 30, 2004.

Restriction was required under 35 USC 121, as follows:

- Group I. Claims 24, 36 to 46 and claims 1 to 23, 25 to 35, 47, 48 and 49, drawn to a compound wherein A is pyrazole;
- Group II. Claims 1 to 23, 25 to 35, 47, 48 and 49, drawn to a compound wherein A is imidazole;
- Group III. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is isoxazole;
- Group IV. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is isothiazole;
- Group V. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is furan;

- Group VI. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is thiophene;
- Group VII. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is benzene;
- Group VIII. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is pyridine;
- Group IX. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is pyridazine;
- Group X. Claims 1 to 22, 25 to 34, 48 and 49, drawn to a compound wherein A is pyrimidine;
- Group XI. Claims 50 to 64, drawn to multiple methods of use;
- Group XII. Claims 65, 66 and 69, drawn to an intermediate compound of formula (53) and its process of making;
- Group XIII. Claim 67, drawn to a process for making the intermediate compound of formula (48); and
- Group XIV. Claim 68, drawn to a process for making the intermediate compound of formula (I).

Applicants elect Group I (claims 1 to 49).

The Restriction Requirement is traversed for the following reasons.

Groups I to IV were all classified by the Examiner in class 548, and therefore it is respectfully requested that these four Groups be combined.

Groups V and VI were both classified by the Examiner in class 549, and therefore it is respectfully requested that these two Groups be combined.

Groups IX and X were classified by the Examiner in class 549, and therefore it is respectfully requested that these two Groups be combined.

The Examiner did not classify Group VII. If Group VII is classified in classes 548, 549 or 544, it is respectfully requested that Group VII be combined with the Groups that the Examiner classified in class 548, 549 or 544.

Applicants were further required to make a species election.

Applicants elect the compound of claim 41, namely 5-(4-fluorophenyl)-3-(2-phenyl-1,2,3,5,6,8a-hexahydroinolizin-7-yl)-4-(pyridin-4-yl)pyrazole.

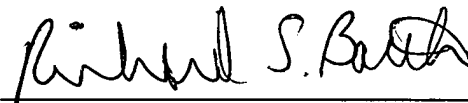
The Restriction Requirement concerning the election of a species is respectfully traversed on the ground that it is not a species requirement of the type set forth in the third paragraph of MPEP 803.02 entitled "PRACTICE RE MARKUSH TYPE CLAIMS." It is respectfully submitted that the practice set forth therein and in the decisions cited in MPEP 803.02 are the proper practice to be applied in the present case and, to the extent that the Restriction Requirement is not consistent therewith, it is respectfully traversed.

If, however, the Restriction Requirement is maintained, then, taking into consideration that there are generic claims, it is respectfully requested that the provisions of 37 CFR 1.141(a) and the procedure set forth in MPEP 806.04(d) be followed, which provide that once a claim is determined to be generic is allowed, all the claims drawn to species, in addition to the elected

species which include all the limitations of the generic claim,
should be allowed.

If the Examiner has any comments, questions, objections or
recommendations, the Examiner is invited to telephone the
undersigned at the telephone number given below for prompt
action.

Respectfully submitted,



RICHARD S. BARTH
REG. NO. 28,180

FRISHAUF, HOLTZ, GOODMAN & CHICK, P.C.
767 THIRD AVENUE - 25TH FLOOR
NEW YORK, NEW YORK 10017-2023
Tel. Nos. (212) 319-4900
(212) 319-4551/Ext. 219
Fax No. (212) 319-5101
E-Mail Address: BARTH@FHGC-LAW.COM
RSB/ddf